



SURFACE TRANSPORTATION BOARD

[Docket No. AB 1311]

Metro-North Commuter Railroad Company—Adverse Discontinuance of Trackage Rights—Housatonic Railroad Company

On June 7, 2021, Metro-North Commuter Railroad Company (Metro-North) filed an application under 49 U.S.C. 10903 requesting that the Surface Transportation Board (the Board) authorize the third-party, or “adverse,” discontinuance of operating authority held by Housatonic Railroad Company (Housatonic) over a 41.1-mile rail line owned by Metro-North, extending between milepost 0.0 at Beacon, N.Y., and milepost 71.2 at the Connecticut/New York state line, in Dutchess and Putnam Counties, N.Y. (the Line).¹ The Line traverses U.S. Postal Service Zip Codes 12508, 12524, 12533, 12582, 12570, 12531, 12563, 10509, and 12564.

Metro-North explains that it acquired the Line in 1995 and that, when the Board’s predecessor, the Interstate Commerce Commission, authorized the acquisition, it also exempted Metro-North from most of the provisions of Subtitle IV of Title 49 of the U.S. Code and allowed Metro-North to abandon the Line subject to the future discontinuance of trackage rights held by the Danbury Terminal Railroad Company (DTRC). See Metro N. Commuter R.R.—Acquis. Exemption—Maybrook Line, FD 32639 et al. (ICC served Jan. 13, 1995). DTRC and Housatonic later merged, and Housatonic assumed DTRC’s operating rights. See Housatonic R.R.—Corp. Family Transaction Exemption—Danbury

¹ Metro-North initially submitted its application on April 30, 2021. By letter filed on May 14, 2021, Metro-North stated that it had provided notice of an incorrect list of Zip Codes and requested that the proceeding be held in abeyance until June 7, 2021, to allow Metro-North to provide the required 15-day notice and permit newspaper publication of the corrected information. That request was granted, and Metro-North submitted its supplemental information on June 7, 2021, which therefore will be considered the filing date and the basis for all dates in this notice. Metro-North also filed an updated certificate of service on June 15, 2021.

Terminal R.R., FD 33310 (STB served Dec. 27, 1996). Metro-North now seeks adverse discontinuance of Housatonic's operating authority over the Line.

In a decision served in this proceeding on April 20, 2021, Metro-North was granted exemptions from several statutory provisions as well as waivers of certain Board regulations that the Board concluded were inapplicable and unneeded in connection with Metro-North's anticipated application.

According to Metro-North, it is not aware of any document that indicates the Line contains federally granted rights of way. Any documentation in Metro-North's possession will be made available promptly to those requesting it. Metro-North's entire case for discontinuance was filed with the application.

The interests of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

Any interested person may file comments concerning the proposed adverse discontinuance or protests (including protestant's entire opposition case) by July 22, 2021. Persons who may oppose the proposed adverse discontinuance but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons opposing the proposed adverse discontinuance who wish to participate actively and fully in the process should file a protest, observing the filing, service, and content requirements of 49 CFR 1152.25. Metro-North's reply is due by August 6, 2021.

All pleadings, referring to Docket No. AB 1311, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on: (1) Metro-North's representative, Charles A. Spitulnik, Kaplan Kirsch & Rockwell LLP, 1634 I ("Eye") St., N.W., Suite 300, Washington, DC 20006; and (2) Housatonic's representative, Edward J. Rodriguez, 4 Huntley Rd.,

P.O. Box 687, Old Lyme, CT 06371. Except as otherwise set forth in 49 C.F.R. part 1152, every document filed with the Board must be served on all parties to this adverse discontinuance proceeding. 49 CFR 1104.12(a).

A Draft Environmental Assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Board's Office of Environmental Analysis (OEA) will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the Draft EA (or EIS) may contact OEA by phone at the number listed below. Draft EAs normally will be made available within 33 days of the filing of the application, and the deadline for submission of comments on the Draft EA will generally be within 30 days of its service. The comments received will be addressed in a Final EA (or EIS) and the Board's decision. A Supplemental Final EA (or EIS) may be issued where appropriate.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full discontinuance regulations at 49 C.F.R. part 1152. Assistance for the hearing impaired is available through the Federal Relay Service at 1-800-877-8339.

Board decisions and notices are available at www.stb.gov.

Decided: June 22, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

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